IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

LA.App..No. 766 of 2005()

LAR.41/1999 of SUB COURT, MANJERI
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APPELLANT/2ND RESPONDENT:

MANAGING DIRECTOR, KERALA STATE
INDUSTRIAL DEVELOPMENT CORPORATION,
THIRUVANANTHAPURAM.

BY ADV. SRI.JOBY CYRIAC, SC, KSIDC

RESPONDENTS/IST RESPONDENT & CLAIMANT:
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1. THE DISTRICT COLLECTOR,
MALAPPURAM.

2. KALAPPADAN JAFER,
S/O.KUNHIMMUDU, PANAKKAD,
MALAPPURAM, MUKTHIYAR AGENT OF SRI.OLAVAKANDATHIL
ALAVIKUTTY, S/O.MOIDEENKUTTY, MATTATHOOR,
OTHUKKUNGAL.

R1 BY GOVERNMENT PLEADER ADV. SMT. K.R. DEEPA.
R2 BY ADV. SRI. BABU S. NAIR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 15/03/2007 ALONG WITH L.A.A.Nos. 767 AND 771 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO. 1965 OF 2005 IN L.A.A.NO. 766 OF 2005

DISPOSED OF VIDE JUDGMENT DATED 15.03.2007.

15.03.2007 **SD/- KURIAN JOSEPH, JUDGE.**
SD/- K.T. SANKARAN, JUDGE.

/true copy/

P.A. TO JUDGE

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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L.A.A. Nos. 766, 767 and 771 OF 2005

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Dated this the 15th March, 2007

J U D G M E N T

Kurian Joseph, J:

These appeals are filed against the common judgment dated 30.11.2004 in L.A.R. Nos. 41 of 1999, 42 of 1999 and 39 of 1999 respectively on the file of the Sub Court, Manjeri. The acquisition is for the purpose of setting up an Industrial Growth Centre at Panakkad. Reliance is basically placed on Ext. A7 judgment in L.A.R.No. 54 of 1999 and connected cases. That has become final in view of the judgment dated 24.05.2005 in L.A.A.No. 1230 of 2003. Market value fixed by the reference court therein is Rs. 4,000/- per cent . However, in the instant case, the value fixed is Rs. 4,500/- per cent. Learned counsel for the appellant vehemently contends, relying on the decision of the Supreme Court in **Dhian Singh vs. Union of India (AIR 1992 S.C. 475)** that the said

judgment should have been followed by the Reference Court and that the Reference Court has committed an error in fixing the land value at Rs.4,500/-. We are afraid that the said contentions cannot be appreciated for the simple reason that the lands covered by Ext,A7 judgment is included in 'G' group, whereas the lands covered by these appeals are included in 'B' group. There is also clear evidence that the lands covered by these appeals are having more potentialities than the lands covered in Ext.A7 judgment. The fixation thus being based on evidence and there being no contra evidence to upset the evidence, we do not find any merit in the contention regarding fixation of market value, at Rs. 4,500/- per cent.

It is seen that the Reference Court has awarded enhancement in land value for the entire extent of land. Apparently there is duplication since claimants have been granted value of improvements. The Land Acquisition Officer rightly excluded the area covered by improvements and limited compensation to the remaining extent. It is made clear that the

enhanced land value at the rate of Rs.4,500/- per cent will be limited to the area for which the compensation has been awarded by the Land Acquisition Officer on centage basis.

Land Acquisition Appeals are disposed of as above.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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